

March 29, 1976

SENATOR SIMPSON: You are right.

SENATOR CAVANAUGH: Then I move to return the bill and strike the enacting clause.

SENATOR SIMPSON: All right. Senator Cavanaugh.

SENATOR CAVANAUGH: I just have one question of Senator Murphy. Senator Murphy, this seems to deal with two different subjects and the second one is the one I don't understand and you are changing the dividends from...it looks like you are changing it from surplus profits to earned surpluses. The dividends will be paid out of earned surpluses rather than surplus profits. What is the difference there?

SENATOR MURPHY: It is my understanding, Senator Cavanaugh, that there is no definition in the law of Nebraska for surplus profits. There is a definition for earned surplus. The language was inherited from somewhere and the Director asked that it be cleaned up in order to avoid confusion and I have an awareness of what an earned surplus is. A surplus profit sounds like a little bit of a redundant phrase and Mr. Nelson indicated that there is no such definition in Nebraska law and, therefore, maybe it would help the law a little bit if we removed that wording.

SENATOR CAVANAUGH: Then what have they been doing?

SENATOR MURPHY: They have been paying it out of earned surplus.

SENATOR CAVANAUGH: Okay, could you just give me a definition, then.

SENATOR MURPHY: Would I give you the definition?

SENATOR CAVANAUGH: Yes.

SENATOR MURPHY: Well, I don't profess to be that profound in insurance, Senator, but insurance companies do have two categories of surplus, earned income and unearned income. A certain amount of unearned income is deferred reserves for possible payment of claims and is not considered as earned surplus until the time of that policy has expired, I believe. At that time, it then becomes earned surplus. It is, in fact, a true earning not subject to a subsequent claim and, therefore, can be considered a legitimate profit of the corporation available for distribution in dividends if they so decide.

SENATOR CAVANAUGH: Earned surplus then is profit?

SENATOR MURPHY: I believe that is the normal phraseology for an insurance company, yes.

SENATOR CAVANAUGH: Okay, thank you. I will withdraw the motion.

SENATOR SIMPSON: Any objection. If not, we will go back to Final Reading. I will ask you two gentlemen over here to take your seats, please. The Clerk will read the bill.